From: James Marca
To: Microsoft ATR
Date: 1/23/02 5:26pm
Subject: Microsoft Settlement

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Hi,

My name is James Marca. I am a graduate student in Civil Engineering
at UC Irvine. I object on many points to the propose Microsoft
Settlement, and as a citizen of the State of California, I am quite
happy that my State Attorney General is one of those pushing for a
stronger settlement.

In short, I believe the federal government caved. I believe that the
Republican party has been swayed by the money, as well as its
traditional sweet spot for big business. Unfortunately, the Enron
debacle demonstrates vividly that the free market and self-regulation
is not good enough at stemming the worst excesses of corporate greed.

Allow me to digress slightly.

Microsoft is an aggressive, smart company, who are quite capable of
crushing competition in all forms. When Netscape came out with their
Navigator browser and the WWW was essentially brand new, I was working
in Boston at a consulting firm. When we finally got Internet access
at our desks, it was a revelation. My friend and I had a long running
email exchange about what this new medium meant. I remembered Marshall
McLuhan's book, The Medium is the Massage, which I had read as an
undergraduate when I was working on my senior (engineering!)
thesis. For several months I read that random pages from that book,
and thought about how McLuhan was really describing the Internet, not
electricity and television. I proposed to my friend (a programmer in
Palo Alto) that we should leverage hypertext to create a browsing
platform, not just for display, as Netscape was doing, but for running
programs like spreadsheets and word processors. My friend wrote back
saying forget it, Netscape was already pushing that front, and they
had a huge head start.

At the time, I was sick and tired of Windows applications crashing.
The thought of an alternative operating system was really appealing to
me, as my company had just converted to MS Office, disallowing the use
of Lotus and WordPerfect in the name of corporate standardization.
Right before I went back to graduate school, I was working on a
document with our publication department in which many spreadsheet
figures were embedded in an MS Word document. That sucker crashed if
you made two changes. So to proof-read the document, edit the WYSIWYG
elements, and so on, we had to open it up, make one change, save,
close, reopen, change, save, close, and so on. When I got back to
grad school, I found LaTeX, then later Linux, and I no longer use
Microsoft products. (YAY!)

I told you that story so I could tell you this one.

I am not a lawyer, and I cannot decipher many of the details of the

proposed settlement. Therefore, I have read through many of the
comments that are available on the Internet. One of the best is by
Robert Cringely, available at:

http://www.pbs.org/cringely/pulpit/pulpit20011206.html

If I may, I'd like to quote from that document, starting with the
seventh paragraph:

\begin{quote}

Here is what I mean. The remedies in the Proposed Final Judgment
specifically protect companies in commerce -- organizations in
business for profit. On the surface, that makes sense because
Microsoft was found guilty of monopolistic activities against
"competing" commercial software vendors like Netscape, and other
commercial vendors -- computer vendors like Compaq, for example. The
Department of Justice is used to working in this kind of economic
world, and has done a fair job of crafting a remedy that will rein in
Microsoft without causing undue harm to the rest of the commercial
portion of the industry. But Microsoft's greatest single threat on the
operating system front comes from Linux -- a non-commercial product --
and it faces a growing threat on the applications front from Open
Source and freeware applications.

The biggest competitor to Microsoft Internet Information Server is
Apache, which comes from the Apache Foundation, a
not-for-profit. Apache practically rules the Net, along with Sendmail,
and Perl, both of which also come from non-profits. Yet not-for-profit
organizations have no rights at all under the proposed settlement. It
is as though they don't even exist.

\end{quote}

I would add that the biggest competitor to Microsoft Word, in the
academic market, is LaTeX and TeX, a public domain text layout
system. Again, free software.

\begin{quote}

Section III(J)(2) contains some very strong language against
not-for-profits. Specifically, the language says that it need not
describe nor license API, Documentation, or Communications Protocols
affecting authentication and authorization to companies that don't
meet Microsoft's criteria as a business: "...(c) meets reasonable,
objective standards established by Microsoft for certifying the
authenticity and viability of its business, ..."

So much for Samba and other Open Source projects that use Microsoft

calls. The settlement gives Microsoft the right to effectively kill
these products.

Section III(D) takes this disturbing trend even further. It deals with
disclosure of information regarding the APIs for incorporating
non-Microsoft "middleware." In this section, Microsoft discloses to
Independent Software Vendors (ISVs), Independent Hardware Vendors
(IHVs), Internet Access Providers (IAPs), Internet Content Providers
(ICPs), and Original Equipment Manufacturers (OEMs) the information
needed to inter-operate with Windows at this level. Yet, when we look
in the footnotes at the legal definitions for these outfits, we find
the definitions specify commercial concerns only.

But wait, there's more! Under this deal, the government is shut out,
too. NASA, the national laboratories, the military, the National
Institute of Standards and Technology -- even the Department of
Justice itself -- have no rights. It is a good thing Afghanistan is
such a low-tech adversary and that B-52s don't run Windows.

I know, I know. The government buys commercial software and uses
contractors who make profits. Open Source software is sold for profit
by outfits like Red Hat. It is easy to argue that I am being a bit
shrill here. But I know the way Microsoft thinks. They probably saw
this one coming months ago and have been falling all over themselves
hoping to get it through. If this language gets through, MICROSOFT
WILL FIND A WAY TO TAKE ADVANTAGE OF IT.

\end{quote}

My fear is that one day I will buy a computer whose motherboard BIOS
requires me to run Microsoft's latest subscription-based operating
system, which will in turn only allow me to run Microsoft's
subscription-based office suite, and Microsoft's subscription-based
compiler will be the only one that can take advantage of Microsoft's
proprietary windows API. Paranoid, perhaps. But this laptop that I
am typing on came with Windows ME. Only Windows ME. I loaded up
Slackware Linux 8.0 immediately, and had no problems, and yet Sony was
unable to sell me this laptop without Windows ME, due to licensing
restrictions from Microsoft. The only laptops I could find with Linux
on them were very expensive models from IBM---out of my budget.
So I was *forced* to pay Microsoft for a copy of windows that
I *do not* use. I had no recourse, other than not buying the laptop.

Back to applications and APIs.

There is no way to take a LaTeX document and save it as a Word
document, since there is no public documentation of the Word file
format, and reverse engineering that format might be illegal

illegal (if I understand the restrictions of the DMCA properly). So
if I want to work with co-workers on a document, I am forced to save
as RTF, or rich text format. Luckily the good folks at AbiWord and
OpenOffice have developed utilities to read Word documents and convert
them into editable text. But there is no reverse, save as Word
option.

There is nothing in this settlement that will make my situation
easier, and plenty that will make it worse. At home I am going to set
up a Samba file server and printer gateway, so that my wife and I can
both use the new printer without switching cables and so on. Samba
has been in danger from Microsoft for some time. About a year ago,
Microsoft engaged in some textbook embrace-and-extend (the same way
they snatched html from Netscape) with the Kerberos authentication
system, thus forcing the Samba guys to play catch-up with Windows
2000. I can't find details on that situation, but I did find this
older Samba document, from the Samba.org website:

\begin{quote}

The Future

Windows 2000 looms on the horizon like a lazy animal peeking its head
over the edge of its burrow while trying to decide whether or not to
come out. No one is exactly sure about the kind of animal it will be
when it does appear, but folks are fairly certain that it will have
teeth.

Because of their dominance on the desktop, Microsoft gets to decide
how CIFS will grow. Windows 2000, like previous major operating system
releases, will give us a whole new critter to study. Based on the beta
copies and the things that Microsoft has said, here are some things to
watch for:

CIFS Without NetBIOS. Microsoft will attempt to decouple CIFS and
NetBIOS. NetBIOS won't go away, mind you, but it won't be required for
CIFS networking either. Instead, the SMB protocol will be carried
natively over TCP/IP. Name lookups will occur via the DNS. Dynamic DNS

Microsoft will implement Dynamic DNS, a still-evolving system designed
by the IETF (Internet Engineering Task Force). Dynamic DNS allows
names to be added to a DNS server on-the-fly. Kerberos V

Microsoft has plans to use Kerberos V. The Microsoft K5 tickets are
supposed to contain a Privilege Attribute Certificate (PAC), which
will include user and group ID information from the Active
Directory. Servers will be looking for this PAC when they grant access
to the services that they provide. Thus, Kerberos may be used for both
authentication and authorization. Active Directory

The Active Directory appears to be at the heart of Windows 2000
networking. It is likely that legacy NetBIOS services will register
their names in the Active Directory. Hierarchical NT Domains

Instead of isolated Domain Controllers, the NT Domain system will
become hierarchical. The naming system will change to one that is
remarkably similar to that of the DNS.

...

Whatever the next Windows animal looks like, it will be Samba's job to
help it get along with its peers in the diverse world of the
Internet.

\end{quote}

And of course, Microsoft's job is to try to kill the Samba effort, so
that they can sell more licenses to software.

I fail to see how the proposed settlement addresses Microsoft
extending its monopoly to the Internet, which is dominated by free
software at the moment, nor how it addresses the attempts by Microsoft
to preserve its dominance of the desktop market, where the only
credible alternative is Linux and programs written for Linux. In
fact, the settlement appears to allow Microsoft at best to ignore and
at worst actively litigate against (for reverse engineering, etc) its
largest potential competitor---free software.

You have not required MS to open up their APIs to all comers, only to
commercial entities. Open source projects, on the other hand, open
their source to all comers, Microsft included. So Microsoft (or any
commercial company) can look at the Apache code, the Samba code, and
so on, and take the best features that they see.

You may think this is silly, that commercial companies have better
code than free software advocates, and so on. But consider this
interview with Donald Knuth, inventor and programmer of TeX, from
http://www.advogato.org/article/28.html

\begin{quote}
Q: I noticed, for example, that in the proprietary software market for
publishing, that systems are only today acquiring features that have
existed in TeX for a long time, for example whole-paragraph
optimization. There's a big to-do about Adobe InDesign, which
finally...

A: They finally implemented the TeX algorithm.

Q: Did they implement the TeX algorithm?

A: Yeah, that's what they said.

Q: Did you talk to the people?

A: I met three of four of them at the ATYPI meeting in Boston in
October, but that was after I had heard about it, that some friends
had found this in the documentation.
\end{quote}

The fertile development environment envisioned by free software
pioneers such as Richard Stallman and Eric Raymond is happening in the
open source world. I have often opened up perl and C++ source code to
learn about better ways to do things in my own code, and when I take
snippets I credit the source, and make sure that my own code is at
least as open (GPL2 or Artistic licenses being my personal
favorites). But the transfer of ideas and techniques appears to be a
one-way street from the free software world to the proprietary
software world. Companies like Microsoft take. And then in the
settlement they don't even have to open up their APIs to free software
programmers! APIs are NOT code. They are just hooks into compiled
code. So I can't see the crappy or excellent source code with an API,
I just get to see the advertised *capabilities* of compiled code. And
yet Microsoft does not have to share this with me, because I am not a
viable commercial entity.

Why does this matter? Because I am the future of this country, as is
my office mate, my advisor, undergraduates I work with, and as is my
18 month old daughter. I share my knowledge with these people, and I
encourage them to learn and share back.

I am developing a peer-to-peer traffic information and control system
which I hope will be open to all. I call it the Autonet. I pride
myself on the idea that it may become ubiquitous, and so I wrote the
term and the ideas in my notebook last year. But otherwise I have
made no effort to hide my ideas, because I feel what I am doing will
be best served if everybody has a hand in it---many hands make light
work, but also many eyes can watch big brother. But my system has to
run on Linux. I dare not base any of my code on Microsoft tools and
APIs, because they can pull the rug out from under me at any time. I
am not a commercial entity, but I am an academic, and a programmer of
modest expertise. I can develop useful tools and products, and I will
do so for Linux. However, who will use my code if MS kills Linux, if
it becomes illegal to reverse engineer APIs, if Lindows is crushed and
prevented from marketing a Linux within Windows setup (or whatever it
is they've got going over there). And when computers are plonked in
cars (they are beginning to pop up now), you can bet that MS will try
to get all of them to run Windows. If my ideas are the best thing

going, they will steal my ideas and release a featureful extension of my APIs, and they can legally withhold their extensions to my API from me! Of course, that is a far off and improbable future, but you proposed settlement is weighing heavily in my mind. Why should I bother with this innovation, if it will get extended and stolen by Microsoft? Why should anyone try to break the rules, if the legal rules are written and enforced to the advantage of the entrenched monopolies?

I do hope you back out of this embarrassing sell-out of a settlement. Failing that, I hope that my attorney general is able to get a much stronger settlement in effect for California residents.

Thank you for your time on this rambling letter.

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ps, as I am about to mail this off, I did one more search on Google for the Samba stuff I remember. Here is one link of many that turned up in my search (type Kerberos Samba embrace extend)

http://techupdate.zdnet.com/techupdate/stories/main/0,14179,2582875,00.html

The article points out that Microsoft did nothing legally wrong, since they exploited a hole in the BSD-style license. But there is the smoking gun of trying to kill Samba by taking and not giving back.

james